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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/825,956	04/05/2001	Sabine Oepen	51315	5586

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EXAMINER	
MULLIS, JEFFREY C	
ART UNIT	**PAPER NUMBER**
1711	5

DATE MAILED: 11/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/825,956	Applicant(s) OEPEN ET AL.	
	Examiner Jeffrey C. Mullis	Art Unit 1711	

-- The MAILING DATE of this communication appears on the cover sheet with th correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 September 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Applicants' election with traverse of the species of a non-cross-linked butadiene rubber graft base and a styrene-acrylonitrile graft and an amorphous or semi-crystalline styrene/acrylonitrile copolymer in Paper No. 4 is acknowledged. The traversal is on the ground(s) that the chemical nature of the constituents of the molding materials is "of subsidiary impact" and that a "restriction concerning the chemical nature of one or more of the molding components should, therefore, not be necessary". This is not found persuasive because it is not clear if applicants are indicating that the various species are not patentably distinct. Since applicants have not made a clear statement in this regard, it is assumed that applicants believe that the various species are patentably distinct. In such an instance, a search of all the species is necessary and since the search for the various species is not co-extensive, undue burden exists.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-7 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention.

The term "where appropriate" renders the claims unclear as recited in at least line 3 of claim 1 since it cannot objectively be determined when a particular feature is "appropriate".

The (filtration) various apparatus in claim 4 are not art recognized with the exception of "horizontal pressure leaf filters" and claim 4 is therefore unclear.

If the term "Atlantic filters" is a tradename, then use of the term "Atlantic filters" is unacceptable and objected to as is claim 4 since the identity of a tradename may change with the whim of the manufacturer.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Dalton et al. (USP 4,064,093).

Dalton et al. disclose a process of preparing a latex comprising grafted rubber particles for ABS blends which entails preparing said latex and passing it through a filter to produce a filtered latex. Note the abstract. Note the Examples such as Examples 1 and 2 in column 10 in which the latex is passed through a screen by means of gravity. While it is not clear what the apparati of claim 4 embrace, patentees disclose filtration apparatus using screening features and therefore it appears that possibly applicants intend that the apparatus of claim 4 embraces that of the Examples of patentees. Note that the latex produced is based on polymerized butadiene in the Examples and therefore applicants' glass transition temperature characteristic would be inherent.

With regard to the specific amount of applicants' component "B", it is known in the art a significant amount of ungrafted copolymer is produced by grafting emulsion copolymers. Note page 13 lines 30-33 of applicants' specification which discloses the use of ordinary art recognized grafting methods for producing their graft copolymers and that 5-15% by weight of graft copolymer is produced. Since patentees utilize a similar method to that of applicants, it would reasonably appear that

applicants' amounts of component "B" are inherent in the process of the reference.

Claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Dalton et al., cited above in view of Schmidt, Jr. (USP 4,391,709).

Schmidt, Jr. discloses a process utilizing a horizontal pressure leaf filter the use of which provides a more uniformly dried filter cake with better water removal. Note column 2 lines 29-36 and column 1 lines 39-45 in this regard.

Possibly applicants do not view the filtration apparati of Dalton as emracing those of instant claim 4.

It would have been obvious to a practitioner having ordinary skill in the art at the time of the invention to use the apparatus of Schmidt, Jr. in the process of Dalton et al. in order to provide for better water removal and more efficient filtering in the process of the primary reference absent any showing of surprising or unexpected results.

Any inquiry concerning this communication should be directed to Jeffrey Mullis at telephone number (703) 308-2820.

J. Mullis:cdc
November 15, 2002

Jeffrey Mullis
Primary Examiner
Art Unit 1711